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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SAN LUIS & DELTA-MENDOTA WATER
AUTHORITY et al.

Plaintiffs,

v.

U.S. DEPARTMENT OF THE INTERIOR
et al.,

Defendants,

NATURAL RESOURCES DEFENSE
COUNCIL, et al.,

Defendant-Intervenors.

Civ. No. F-02-6461-OWW-DLB

**Joint Stipulation Settling Plaintiffs'
Claims for Attorneys' Fees and Costs
and Order**

Plaintiffs California Farm Bureau Federation and Ted Sheely (the "Farm Bureau Plaintiffs") and Federal Defendants United States Department of the Interior et al. (the "Federal Defendants"), by and through their undersigned counsel, hereby say as follows:

WHEREAS, on November 22, 2002, the Farm Bureau Plaintiffs filed a complaint initiating the present action in the United States District Court for the District of Columbia, *California Farm Bureau Federation v. Badgley*, No. 1:02-cv-02328-RCL (D.D.C.), Docket No. 1;

1 WHEREAS, the First Claim in the Farm Bureau Plaintiffs' complaint alleged that the
2 United States Fish and Wildlife Service (the "Service") had failed to conduct a five-year review
3 of the listing status of the delta smelt, a fish, as required by Section 4(c)(2) of the Endangered
4 Species Act ("ESA");

5 WHEREAS, the Farm Bureau Plaintiffs' first claim was resolved on June 13, 2003, when
6 the United States District Court for the District of Columbia entered a stipulated settlement
7 agreement (the "Agreement") submitted by the parties, *California Farm Bureau Federation*, No.
8 1:02-cv-02328-RCL, Docket No. 22;

9 WHEREAS, under ¶ 7 of that Agreement, the Federal Defendants agreed to pay the
10 "reasonable attorneys' fees and costs attributable" to the Farm Bureau Plaintiffs' first claim for
11 relief;

12 WHEREAS, the Farm Bureau Plaintiffs have presented the Federal Defendants with a
13 claim for attorneys' fees and costs attributable to their first claim for relief in this matter;

14 WHEREAS, the Farm Bureau Plaintiffs moved the United States District Court for the
15 District of Columbia for attorneys' fees and costs on October 12, 2004, Docket No. 35, but that
16 motion was dismissed without prejudice on June 30, 2005, Docket No. 59, when this case was
17 transferred to the present Court;

18 WHEREAS, the parties agree that it is in the interest of the parties and judicial economy
19 to settle this claim for attorneys' fees and costs without protracted litigation; and,

20 WHEREAS, the parties enter this Stipulation without any admission of fact or law, or
21 waiver of any claims or defenses, factual or legal.

22 NOW, THEREFORE, the Farm Bureau Plaintiffs and the Federal Defendants hereby
23 Stipulate and Agree as follows:

24 1. The Federal Defendants agree to settle the Farm Bureau Plaintiffs' claim for the
25 costs and attorneys' fees attributable to their first claim for relief in this matter for a total of
26 \$70,000. This amount will be paid to the California Farm Bureau Federation by wire transfer.
27
28

2. The Federal Defendants agree to submit all necessary paperwork to the Department of the Treasury's Judgment Fund Office pursuant to 16 U.S.C. § 1540(g)(4) within ten (10) business days of receipt of the signed court order approving this stipulation.

3. The Farm Bureau Plaintiffs agree to accept payment of \$70,000 in full satisfaction of any and all claims for attorneys' fees and costs of litigation attributable to their first claim for relief in this matter, including any and all attorneys' fees and costs incurred compiling, presenting, and negotiating their claim for attorneys' fees and costs.

4. The Farm Bureau Plaintiffs agree that receipt of this payment from the Federal Defendants shall operate as a release of the Farm Bureau Plaintiffs' claims for all attorneys' fees and costs attributable to their first claim for relief in this matter, and also any and all attorneys' fees and costs incurred compiling, presenting, and negotiating their claim for attorneys' fees and costs.

5. By this Agreement, the Federal Defendants do not waive any right to contest any further fees or costs claimed by the Farm Bureau Plaintiffs or their counsel, including the hourly rate, in the present litigation or any future litigation. Further, this stipulation has no precedential value and shall not be used as evidence in any other attorneys' fees litigation.

Respectfully submitted,

Dated: March 23, 2007

/s/ Brenda Washington Davis

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21 Attorneys for Federal Defendants

22 Pursuant to the foregoing stipulation, it is so ORDERED.

23 3/23/07

24 /s/ Oliver W. Wanger

25 Dated _____

26 Hon. Oliver W. Wanger
27 United States District Judge
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